

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1962

Citations Affected: IC 22-4.

Synopsis: Various unemployment compensation matters. Reduces the unemployment taxes for all taxpaying employers by 0.01% for the years 2002 through 2004. Recaptures 0.009 of the reduction as an incumbent workers training assessment, and provides for the establishment of the skills 2016 training fund. Provides for the disbursement of the skills 2016 training fund by the establishment of the incumbent workers training board. Provides that a portion of the disbursement of the training fund is to be used by Ivy Tech for certain training programs. Makes certain changes in the administration of and eligibility for unemployment compensation. (This conference committee report does the following: (1) Establishes the skills 2106 training program. (2) Provides rate schedules for assessment of the unemployment contribution assessments. (3) Provides for the establishment of the incumbent workers training board and provides for disbursement of funds from the incumbent workers training fund. (4) Makes certain other changes in the administration of and eligibility for unemployment compensation.)

Effective: July 1, 2001; January 1, 2002.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1962 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning labor
- 3 and industrial safety and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 22-4-10.5 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 8 JANUARY 1, 2002]:
- 9 **Chapter 10.5. Skills 2016 Training Program**
- 10 **Sec. 1. This chapter applies to years beginning after December**
- 11 **31, 2001, and ending before January 1, 2005.**
- 12 **Sec. 2. The skills 2016 training program is established for the**
- 13 **following purposes:**
- 14 (1) To improve manufacturing productivity levels in Indiana.
- 15 (2) To enable firms to become competitive by making workers
- 16 more productive through training.
- 17 (3) To create a competitive economy by creating and retaining
- 18 jobs.
- 19 (4) To encourage the increased training necessary because of
- 20 an aging workforce.
- 21 (5) To avoid potential payment of unemployment compensation
- 22 by providing workers with enhanced job skills.

Sec. 3. The skills 2016 training assessment is nine hundredths percent (0.09%) to be assessed upon the previous year's taxable wages (as defined in IC 22-4-4-2) paid by all employers except those who have elected to make payments in lieu of contributions (as defined in IC 22-4-2-32).

Sec. 4. (a) Skills 2016 training assessments accrue and are payable by each employer under section 3 of this chapter for each calendar year in which the employer is subject to IC 22-4-10-1 with respect to wages for employment.

(b) Skills 2016 training assessments are due and payable to the department by each employer for the purposes set forth in section 2 of this chapter and are not deductible, in whole or in part, from the wages of individuals in the service of the employer.

(c) Skills 2016 training assessments paid under this chapter:

(1) shall not be credited to the employer's experience account; and

(2) do not affect the computation of an employer's contribution rate under IC 22-4-11-2.

Sec. 5. Delinquent or unpaid skills 2016 training assessments shall be collected in a manner provided for the collection of unemployment insurance taxes.

Sec. 6. The skills 2016 training program is to be administered by the department of workforce development in the manner prescribed by IC 22-4-18.3.

Sec. 7. The department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

Sec. 8. (a) Skills 2016 assessments unpaid on the date on which they are due and payable bear interest at the rate of one percent (1%) per month or fraction of a month from and after that date until payment plus accrued interest is received by the department.

(b) A twenty-five dollar (\$25) penalty shall be assessed on any skills 2016 assessments that are unpaid on the date subsequent to the date on which they are due and payable.

(c) All penalty and interest collected on delinquent skills 2016 assessments shall be deposited in the skills 2016 training fund established under IC 22-4-24.5.

Sec. 9. For each state fiscal year, the department shall prepare an annual report on the use of the skills 2016 training funds as a part of the report required by IC 22-4-18-7."

Page 4, line 19, after "all" insert "eligible".

Page 4, line 20, reset in roman "in rate schedule D".

Page 4, line 25, delete "2006" and insert "2004".

Page 4, line 29, delete "Each" and insert "Except as provided in section 3.2(b) of this chapter,".

Page 4, delete lines 35 through 42 and insert:

"When the Credit Reserve Ratio is:

As	But	Rate Schedules				
Much	Less	(%)				
As	Than	A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15

1	2.80	3.00	1.30	0.30	0.10	0.10	0.15
2	2.60	2.80	1.50	0.50	0.10	0.10	0.15
3	2.40	2.60	1.70	0.70	0.30	0.10	0.20
4	2.20	2.40	1.90	0.90	0.50	0.10	0.20
5	2.00	2.20	2.10	1.10	0.70	0.30	0.40
6	1.80	2.00	2.30	1.30	0.90	0.50	0.60
7	1.60	1.80	2.50	1.50	1.10	0.70	0.80
8	1.40	1.60	2.70	1.70	1.30	0.90	1.00
9	1.20	1.40	2.90	1.90	1.50	1.10	1.20
10	1.00	1.20	3.10	2.10	1.70	1.30	1.40
11	0.80	1.00	3.30	2.30	1.90	1.50	1.60
12	0.60	0.80	3.50	2.50	2.10	1.70	1.80
13	0.40	0.60	3.70	2.70	2.30	1.90	2.00
14	0.20	0.40	3.90	2.90	2.50	2.10	2.20
15	0.00	0.20	4.10	3.10	2.70	2.30	2.40".

16 Page 5, delete lines 1 through 12.

17 Page 5, line 13, delete "2006" and insert "2004".

18 Page 5, delete lines 24 through 32 and insert:

19 **"When the Debit Reserve Ratio Is:**

20	As	But	Rate Schedules				
21	Much	Less	(%)				
22	As	Than	A	B	C	D	E
23		1.50	4.40	4.30	4.20	4.10	5.40
24	1.50	3.00	4.70	4.60	4.50	4.40	5.40
25	3.00	4.50	5.00	4.90	4.70	4.70	5.40
26	4.50	6.00	5.30	5.20	5.10	5.00	5.40
27	6.00		5.60	5.50	5.40	5.40	5.40".

28 Page 6, between lines 14 and 15, begin a new paragraph and insert:

29 "SECTION 6. IC 22-4-13-1 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Any individual
 31 who makes, or causes to be made by another, a false statement or
 32 representation of a material fact knowing it to be false or knowingly
 33 fails, or causes another to fail, to disclose a material fact, and as a result
 34 thereof has received any amount as benefits to which the individual is
 35 not entitled under this article, shall be liable to repay such amount to
 36 the commissioner for the unemployment insurance benefit fund or to
 37 have such amount deducted from any benefits otherwise payable to the
 38 individual under this article, within the six (6) year period following
 39 the date of the filing of the claim or statement that resulted in the
 40 payment of such benefits, if the existence of such misrepresentation or
 41 nondisclosure has become final by virtue of an unappealed
 42 determination of a deputy, or a decision of an administrative law judge,
 43 or the review board, or by a court of competent jurisdiction.

44 (b) Any individual who, for any reason other than misrepresentation
 45 or nondisclosure as specified in subsection (a), has received any
 46 amount as benefits to which the individual is not entitled under this
 47 article or because of the subsequent receipt of income deductible from
 48 benefits which is allocable to the week or weeks for which such
 49 benefits were paid becomes not entitled to such benefits under this
 50 article shall be liable to repay such amount to the commissioner for the
 51 unemployment insurance benefit fund or to have such amount deducted

from any benefits otherwise payable to the individual under this article, within the three (3) year period following the date of the filing of the claim or statement that resulted in the payment of such benefits, if the existence of such reason has become final by virtue of an unappealed determination of a deputy or a decision of an administrative law judge, or the review board, or by a court of competent jurisdiction.

(c) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.

(d) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the commissioner shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(e) Where any individual is liable to repay any amount to the commissioner for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this section.

(f) Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:

(1) the benefits were received by the individual without fault of the individual;

(2) the benefits were the result of payments made during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; and

(3) repayment would cause economic hardship.

SECTION 7. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has

voluntarily left ~~his~~ **the individual's most recent** employment without good cause in connection with the work or who was discharged from ~~his~~ **the individual's most recent** employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until ~~he~~ **the individual** has earned remuneration in employment equal to or exceeding the weekly benefit amount of ~~his~~ **the individual's** claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of his current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. ~~When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction will be limited to the unpaid balance. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.~~

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from ~~his~~ **prior the individual's** employment if:

(A) ~~he~~ **the individual** left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of **continued covered employment and** betterment of wages or working conditions; and thereafter was employed on said job; ~~for not less than ten (10) weeks;~~

(B) having been simultaneously employed by two (2) employers, ~~he~~ **the individual** leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) ~~he~~ **the individual** left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for

compulsory retirement and who is otherwise eligible shall not be deemed to have left ~~his~~ **the individual's** work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, ~~he~~ **the individual** shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because ~~he~~ **the individual** is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's ~~prior~~ employment if:

(A) the ~~prior~~ employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 8. IC 22-4-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or
- (3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. ~~When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction shall be limited to the unpaid balance. The~~

maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:
 - (A) the individual's average weekly benefit amount for the

individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 9. IC 22-4-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) An individual shall be ineligible for waiting period or benefit rights: For any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding his weekly benefit amount in the form of:

(1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or

(2) any pension, retirement or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. This disqualification shall apply only if some or all of the benefits otherwise payable are chargeable to the experience or reimbursable account of such employer, or would have been chargeable except for the application of this chapter. For the purposes of this subdivision (2), federal old age, survivors and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.

(b) If the payments described in subsection (a) are less than his weekly benefit amount an otherwise eligible individual shall not be ineligible and shall be entitled to receive for such week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 10. IC 22-4-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) When an individual files an initial claim, the ~~division~~ department shall

1 promptly make a determination of his status as an insured worker in a
 2 form prescribed by the board. A written notice of the determination of
 3 insured status shall be furnished him promptly. Each such
 4 determination shall be based on and include a written statement
 5 showing the amount of wages paid to the individual for insured work
 6 by each employer during the individual's base period and shall include
 7 a finding as to whether such wages meet the requirements for the
 8 individual to be an insured worker, and, if so, the week ending date of
 9 the first week of the individual's benefit period, the individual's weekly
 10 benefit amount, and the maximum amount of benefits that may be paid
 11 to the individual for weeks of unemployment in the individual's benefit
 12 period. For the individual who is not insured, the notice shall include
 13 the reason for the determination. Unless the individual, within twenty
 14 (20) days after such determination was mailed to the individual's last
 15 known address, or otherwise delivered to the individual, asks a hearing
 16 thereon before an administrative law judge, such determination shall
 17 be final and benefits shall be paid or denied in accordance therewith.

18 (b) The department shall promptly furnish each employer in the base
 19 period whose experience or reimbursable account is potentially
 20 chargeable with benefits to be paid to such individual with a notice in
 21 writing of the employer's benefit liability. Such notice shall contain the
 22 date, the name and social security account number of the individual,
 23 the ending date of the individual's base period, and the week ending
 24 date of the first week of the individual's benefit period. Such notice
 25 shall further contain information as to the proportion of benefits
 26 chargeable to the employer's experience or reimbursable account in
 27 ratio to the earnings of such individual from such employer. Unless the
 28 employer, within twenty (20) days after such notice of benefit liability
 29 was mailed to the employer's last known address, or otherwise
 30 delivered to the employer, asks a hearing thereon before an
 31 administrative law judge, such determination shall be final and benefits
 32 paid shall be charged in accordance therewith.

33 (c) An employing unit, including an employer, having knowledge of
 34 any facts which may affect an individual's eligibility or right to waiting
 35 period credits or benefits, shall notify the ~~division~~ **department** of such
 36 facts ~~promptly in accordance with regulations~~ **within twenty (20) days**
 37 **after the mailing of notice that a former employee has filed an**
 38 **initial or additional claim for benefits on a form** prescribed by the
 39 board.

40 (d) In addition to the foregoing determination of insured status by the
 41 department, the deputy shall, throughout the benefit period, determine
 42 the claimant's eligibility with respect to each week for which the
 43 claimant claims waiting period credit or benefit rights, the validity of
 44 the claimant's claim therefor, and the cause for which the claimant left
 45 the claimant's work, or may refer such claim to an administrative law
 46 judge who shall make the initial determination with respect thereto in
 47 accordance with the procedure in IC 22-4-17-3.

48 (e) In cases where the claimant's benefit eligibility or disqualification
 49 is disputed, the department shall promptly notify the claimant and the
 50 employer or employers directly involved or connected with the issue
 51 raised as to the validity of such claim, the eligibility of the claimant for

1 waiting period credit or benefits, or the imposition of a disqualification
 2 period or penalty, or the denial thereof, and of the cause for which the
 3 claimant left the claimant's work, of such determination and the reasons
 4 thereof. Except as otherwise hereinafter provided in this subsection
 5 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
 6 the claimant or such employer, within twenty (20) days after such
 7 notification was mailed to the claimant's or the employer's last known
 8 address, or otherwise delivered to the claimant or the employer, asks a
 9 hearing before an administrative law judge thereon, such decision shall
 10 be final and benefits shall be paid or denied in accordance therewith.
 11 With respect to notice of disputed administrative determination or
 12 decision mailed or otherwise delivered to the claimant or employer
 13 either of whom is located in Alaska, Hawaii, or Puerto Rico, unless
 14 such claimant or employer, within twenty-five (25) days after such
 15 notification was mailed to the claimant's or employer's last known
 16 address or otherwise delivered to the claimant or employer, asks a
 17 hearing before an administrative law judge thereon, such decision shall
 18 be final and benefits shall be paid or denied in accordance therewith.
 19 If such hearing is desired, the request therefor shall be filed with the
 20 commissioner in writing within the prescribed periods as above set
 21 forth in this subsection and shall be in such form as the board may
 22 prescribe. In the event a hearing is requested by an employer or the
 23 department after it has been administratively determined that benefits
 24 should be allowed to a claimant, entitled benefits shall continue to be
 25 paid to said claimant unless said administrative determination has been
 26 reversed by a due process hearing. Benefits with respect to any week
 27 not in dispute shall be paid promptly regardless of any appeal.

28 (f) No person may participate on behalf of the department in any case
 29 in which the person is an interested party.

30 (g) Solely on the ground of obvious administrative error appearing on
 31 the face of an original determination, and within the benefit year of the
 32 affected claims, the commissioner, or a representative authorized by the
 33 commissioner to act in the commissioner's behalf, may reconsider and
 34 direct the deputy to revise the original determination so as to correct
 35 the obvious error appearing therein. Time for filing an appeal and
 36 requesting a hearing before an administrative law judge regarding the
 37 determinations handed down pursuant to this subsection shall begin on
 38 the date following the date of revision of the original determination and
 39 shall be filed with the commissioner in writing within the prescribed
 40 periods as above set forth in subsection (c).

41 (h) Notice to the employer and the claimant that the determination of
 42 the department is final if a hearing is not requested shall be
 43 prominently displayed on the notice of the determination which is sent
 44 to the employer and the claimant.

45 SECTION 11. IC 22-4-17-4 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The
 47 commissioner shall appoint one (1) or more administrative law judges
 48 to hear and decide disputed claims. Such administrative law judges
 49 shall be full-time salaried employees of the department. Administrative
 50 law judges appointed under this section are not subject to IC 4-21.5 or
 51 any other statute regulating administrative law judges, unless

specifically provided.

(b) The unemployment insurance board may authorize employment of part time administrative law judges for limited periods.

SECTION 12. IC 22-4-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

(1) Administer the unemployment insurance program, the Wagner-Peyser program, **the Workforce Investment Act**, the Job Training Partnership Act program, including a free public labor exchange, and related federal and state employment and training programs as directed by the governor.

(2) Formulate and implement an employment and training plan as required by the **Workforce Investment Act (29 U.S.C. 2801 et seq.)**, the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(3) Coordinate activities with all state agencies and departments that either provide employment and training related services or operate appropriate resources or facilities, to maximize Indiana's efforts to provide employment opportunities for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment.

(4) Apply for, receive, disburse, allocate, and account for all funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government.

(5) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department.

(6) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of this agency imposed by this chapter, including contracts for the establishment and administration of employment and training offices and the delegation of its administrative, monitoring, and program responsibilities and duties set forth in this article. Before executing contracts described by this subdivision, the department shall give preferential consideration to using departmental personnel for the provision of services through local public employment and training offices. Contracting of Wagner-Peyser services is prohibited where state employees are ~~laid-off~~ **laid off** due to the diversion of Wagner-Peyser funds.

(7) Perform other services and activities that are specified in contracts for payments or reimbursement of the costs made with the Secretary of Labor or with any federal, state, or local public agency or administrative entity under the **Workforce Investment Act (29 U.S.C. 2801 et seq.)**, the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or private nonprofit organization.

(8) Enter into contracts or agreements and cooperate with entities that provide vocational education to carry out the duties imposed by this chapter.

(c) The department of workforce development may not enter into contracts for the delivery of services to claimants or employers under the unemployment insurance program. The payment of unemployment compensation must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:

(1) **29 U.S.C. 2801 et seq.**, 29 U.S.C. 1501 et seq., and other applicable federal laws; and

(2) the plan prepared by the department under subsection (g)(1).

However, the Indiana commission on vocational and technical education within the department of workforce development shall distribute federal funds received under 29 U.S.C. 1533.

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall do the following:

(1) Implement to the best of its ability its employment training programs (as defined in IC 20-1-18.3-3), ~~and~~ the comprehensive vocational education program in Indiana developed under the long range plan under IC 20-1-18.3-10, **and the skills 2016 training program established under IC 22-4-10.5.**

(2) Upon request of the budget director, prepare a legislative budget request for state and federal funds for employment training.

The budget director shall determine the period to be covered by the budget request.

(3) Evaluate its programs according to criteria established by the Indiana commission on vocational and technical education within the department of workforce development under IC 20-1-18.3-13.

(4) Make or cause to be made studies of the needs for various types of programs that are related to employment training and authorized under the **Workforce Investment Act and the Job Training Partnership Act.**

(5) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with:

(A) the general assembly appropriation; and

(B) the plan prepared by the department under subdivision (1).

SECTION 13. IC 22-4-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. The department of workforce development established under IC 22-4.1-2-1 shall administer job training and placement services, **the skills 2016 training program established by IC 22-4-10.5-2**, and unemployment insurance.

SECTION 14. IC 22-4-18.3 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 18.3. Incumbent Workers Training Board

Sec. 1. As used in this chapter, "board" refers to the incumbent workers training board established by this chapter.

Sec. 2. The incumbent workers training board is established. The board consists of the following members:

(1) One member to represent labor appointed by the governor from a list of nominees provided by the United Auto Workers Region 3.

(2) One member to represent labor appointed by the governor from a list of nominees provided by the Indiana State AFL-CIO.

(3) One member to represent business appointed by the governor from a list of nominees provided by the Indiana Manufacturers Association.

(4) One member to represent business appointed by the governor from a list of nominees provided by the Indiana Chamber of Commerce.

Sec. 3. Each member of the board serves at the pleasure of the governor. If a vacancy exists on the board for any reason, including death, resignation, or removal by the governor, the governor shall fill the vacancy by appointing a new member from a list provided by the same organization that nominated the former member whose position is vacant.

Sec. 4. The board shall meet at least once each month at the office of the department of workforce development. The department shall provide staff support for the board.

Sec. 5. The affirmative votes of three (3) members of the board are required to take action on any matter.

Sec. 6. (a) The board shall make recommendations to the unemployment insurance board for disbursements of funds from the skills 2016 training fund established by IC 22-4-24.5-2. The unemployment insurance board may either approve or reject, but not modify, such a recommendation.

(b) If the unemployment insurance board approves a disbursement recommended by the board, the department of workforce development shall so disburse the funds.

(c) If the unemployment insurance board rejects a recommendation of the board, the unemployment insurance board may return the recommendation to the board and may include a written statement explaining the reasons for the rejection.

Sec. 7. The board shall communicate its recommendations to the unemployment insurance board in writing. The unemployment insurance board shall place the board's recommendations on the unemployment insurance board's agenda for its next meeting and shall take action on the recommendations at that meeting.

SECTION 15. IC 22-4-19-6, AS AMENDED BY P.L.235-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers

1 necessary. These records are:

- 2 (1) open to inspection; and
- 3 (2) subject to being copied;

4 by an authorized representative of the department at any reasonable
5 time and as often as may be necessary. The commissioner, the review
6 board, or an administrative law judge may require from any employing
7 unit any verified or unverified report, with respect to persons employed
8 by it, which is considered necessary for the effective administration of
9 this article.

10 (b) Except as provided in subsection (d), information obtained or
11 obtained from any person in the administration of this article and the
12 records of the department relating to the unemployment tax, **the skills**
13 **2016 assessment under IC 22-4-10.5-3**, or the payment of benefits is
14 confidential and may not be published or be open to public inspection
15 in any manner revealing the individual's or the employing unit's
16 identity, except in obedience to an order of a court or as provided in
17 this section.

18 (c) A claimant at a hearing before an administrative law judge or the
19 review board shall be supplied with information from the records
20 referred to in this section to the extent necessary for the proper
21 presentation of the subject matter of the appearance. The commissioner
22 may make the information necessary for a proper presentation of a
23 subject matter before an administrative law judge or the review board
24 available to an agency of the United States or an Indiana state agency.

25 (d) The commissioner may release the following information:

- 26 (1) Summary statistical data may be released to the public.
- 27 (2) Employer specific information known as ES 202 data and data
28 resulting from enhancements made through the business
29 establishment list improvement project may be released to the
30 department of commerce only for the following purposes:

31 (A) The purpose of conducting a survey.

32 (B) The purpose of aiding the officers or employees of the
33 department of commerce in providing economic development
34 assistance through program development, research, or other
35 methods.

36 (C) Other purposes consistent with the goals of the department
37 of commerce and not inconsistent with those of the department.

- 38 (3) Employer specific information known as ES 202 data and data
39 resulting from enhancements made through the business
40 establishment list improvement project may be released to the
41 budget agency only for aiding the employees of the budget agency
42 in forecasting tax revenues.

43 (4) Information obtained from any person in the administration of
44 this article and the records of the department relating to the
45 unemployment tax or the payment of benefits for use by the
46 following governmental entities:

47 (A) department of state revenue; or

48 (B) state or local law enforcement agencies;

49 only if there is an agreement that the information will be kept
50 confidential and used for legitimate governmental purposes.

51 (e) The commissioner may make information available under

subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), or (e); or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter; commits a Class B misdemeanor.

(g) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

SECTION 16. IC 22-4-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report **or the skills 2016 training assessment under IC 22-4-10.5-3**, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the review board, or **the** administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 17. IC 22-4-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. If any employing unit fails to make any payroll report required by this article, the commissioner shall give written notice by mail to the employing unit to make and file the report within ten (10) days from the date of the notice. If the employing unit, by its proper members, officers, or agents, fails or refuses to make and file the report within such time, the report shall be made by the department from the best information available, and the amount of contribution **and skills 2016 training assessment** due shall be computed thereon and the report shall be prima facie correct for the purposes of this article.

SECTION 18. IC 22-4-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions **or skills 2016 training assessments under IC 22-4-10.5-3, or both,** against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions **or skills 2016 training assessments, or both,** and any interest or penalty due thereon, the board may then cancel all or any part of such claim.

(b) In addition to the procedure for cancellation of claims for delinquent contributions **or skills 2016 training assessments, or both,** set out in subsection (a), the board may cancel all or any part of a claim for delinquent contributions **or skills 2016 training assessments, or both,** against an employer if all of the following conditions are met:

(1) The employer's account has been delinquent for at least seven (7) years.

(2) The commissioner has determined that the account is uncollectible and has recommended that the board cancel the claim for delinquent contributions **or skills 2016 training assessments, or both.**

(c) When any such claim or any part thereof is cancelled by the board, there shall be placed in the files and records of the department, in the appropriate place for the same, a statement of the amount of contributions, **skills 2016 training assessments,** and any interest or penalty due thereon, and the action of the board taken with relation thereto, together with the reasons therefor."

Page 6, line 22, delete "the board" and insert "**IC 22-4-10.5**".

Page 6, line 24, delete "for which the skills 2016 training program is" and insert "**of IC 22-4-10.5.**".

Page 6, delete line 25.

Page 6, between lines 27 and 28, begin a new paragraph and insert: "**(b) Subject to subsection (j), fifty-five percent (55%) of the money in the fund shall be allocated to the state educational institution established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:**

(1) **An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection (b). However, the amount so allocated may not exceed fifteen percent (15%) of the total amount of money allocated under this subsection.**

(2) **After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management building trades apprenticeship**

programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(3) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(4) After the allocation made under subdivision (1), twenty percent (20%) shall be used to provide training to industrial employees not covered by subdivision (2).

(c) Subject to subsection (j), the remainder of the money in the fund shall be allocated as follows:

(1) An amount not to exceed one million dollars (\$1,000,000) shall be allocated to the department of workforce development annually for technology needs of the department.

(2) An amount not to exceed four hundred fifty thousand dollars (\$450,000) shall be allocated annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

(A) have been unemployed for at least four (4) weeks;

(B) are not otherwise eligible for training and counseling assistance under any other program; and

(C) are not participating in programs that duplicate those programs described in IC 22-4-25-1(e).

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.

(3) An amount to be determined annually shall be set aside for the payment of refunds from the fund.

(4) The remainder of the money in the fund after the allocations provided for in subsection (b) and subdivisions (1) through (3) shall be allocated to other incumbent worker training programs."

Page 6, line 28, delete "(b)" and insert "(d)".

Page 6, line 28, after "board." insert "**However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.**".

Page 6, delete lines 29 through 30.

Page 6, line 31, delete "(d)" and insert "(e)".

Page 6, line 35, delete "(e)" and insert "(f)".

Page 6, line 37, delete "(f)" and insert "(g)".

Page 7, delete lines 2 through 7, begin a new paragraph and insert:

"(h) All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section."

Page 7, line 8, delete "(h)" and insert "(i)".

Page 7, between lines 10 and 11, begin a new paragraph and insert:
"(j) If the fund ratio (as described in IC 22-4-11-3) is less than or equal to 1.5 or if the board determines that the solvency of the unemployment insurance benefit fund established in IC 22-4-16-1 is threatened, the funds assessed for or deposited in the skills 2016 training fund shall be directed or transferred to the unemployment insurance benefit fund.

SECTION 20. IC 22-4-25-1, AS AMENDED BY P.L.179-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be

transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for:

~~(1) training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department for individuals who:~~

~~(A) have been unemployed for at least four (4) weeks;~~

~~(B) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(C) are not participating in programs that duplicate those programs described in subdivision (2); or~~

(2) training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. During a particular program year, the department may not use more than one hundred fifty thousand dollars (\$150,000) of the money available under this subsection for its administrative expenses. During a particular program year, at least ninety-four percent (94%) of the money used under this subsection (excluding money used by the department for its administrative expenses) shall be allocated for training programs described in subdivision (2). Of the money allocated for training programs described in subdivision (2), forty-five percent (45%) under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty-five (55%) percent (55%) is designated for building trade programs. During a particular program year, not more than six percent (6%) of the money used under this subsection (excluding money used by the department for its administrative expenses) may be allocated for training and counseling assistance under subdivision (1). Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under subdivision (1) shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.

SECTION 21. IC 22-4-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's duly authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, **skills 2016 training assessments under IC 22-4-10.5-3**, or penalties as required by this article, or for additional contributions **and skills 2016 training assessments** due and unpaid, which assessment ~~shall be deemed is~~ **considered** prima facie correct. Such assessments shall consist of contributions, **skills 2016 training assessments under IC 22-4-10.5-3**, and any interest or penalties which may be due by reason of section 1 of this chapter, **or the skills 2016 training assessment and interest due under IC 22-4-10.5**. Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, **skills 2016 training assessments**, interest, or penalties would have become due, except that this limitation shall not apply to any contributions, **skills 2016 training assessments**, interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

SECTION 22. IC 22-4-29-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 12. The liability for any contributions, **skills 2016 training assessments**, interest, penalties, and damages imposed by this chapter, or costs incidental to execution of warrants, shall not be subject to any of the provisions of

the exemption laws of the state of Indiana for the relief of debtors.

SECTION 23. IC 22-4-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. No injunction to restrain or delay the collection of any contributions, **skills 2016 training assessments under IC 22-4-10.5-3**, or other amounts claimed to be due under the provisions of this article shall be issued by any court.

SECTION 24. IC 22-4-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the commissioner. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through IC 22-4-29-12 and is to be brought only in such cases as the board may deem advisable in the interest of necessity and convenience.

(b) **Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.**

SECTION 25. IC 22-4-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. All matters pertaining to:

- (1) the assessment of contributions, penalties, and interest;
- (2) which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;
- (3) successorships, and related matters arising therefrom, including but not limited to:
 - (A) the transfer of accounts; and
 - (B) the determination of rates of contribution; and
- (4) claims for refunds of contributions, **skills 2016 training assessments**, or adjustments thereon in connection with subsequent contribution payments **and skills 2016 training assessments**;

shall be heard by a liability administrative law judge upon proper application for such hearing.

SECTION 26. IC 22-4-32-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 16. In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state including but not necessarily limited to any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions **and skills 2016 training assessments under IC 22-4-10.5-3** then or thereafter due shall be paid in full prior to all other claims except claims for remuneration.

SECTION 27. IC 22-4-32-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 17. No final report or act of any executor, administrator, receiver, other fiduciary, or other officer engaged in administering the assets of any employer subject to the payment of contributions under this article and acting

1 under the authority and supervision of any court shall be allowed or
 2 approved by the court unless such report or account shows and the
 3 court finds that all contributions, interest, **skills 2016 training**
 4 **assessments under IC 22-4-10.5-3**, and penalties imposed by this
 5 article have been paid pursuant to this section, and that all
 6 contributions **and skills 2016 training assessments** which may
 7 become due under this article are secured by bond or deposit.

8 SECTION 28. IC 22-4-32-18 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 18. To the end
 10 that the purposes of this article may be effectively enforced and
 11 administered, it is the declared intention of the general assembly that
 12 in all cases of legal distributions and dissolutions the commissioner
 13 shall have actual notice before any fiduciary administering the affairs
 14 of an employer subject to the payment of contributions **and skills 2016**
 15 **training assessments** under this article may file the fiduciary's final
 16 report with the court under whose authority and supervision such
 17 fiduciary acts. From and after April 1, 1947, no such final report shall
 18 be filed unless a copy thereof has been served upon the commissioner
 19 by mailing a copy thereof by registered mail to the commissioner at the
 20 commissioner's office in Indianapolis at least ten (10) days prior to the
 21 filing of the same with the court. Such final report shall contain a
 22 statement that a copy thereof was served in the manner provided in this
 23 section upon the commissioner, and before such final report may be
 24 approved by the court there shall be filed in said cause a certificate
 25 from the commissioner that this section has been fully complied with
 26 in the administration of the affairs of said employer. In the event that
 27 the commissioner shall not have been served with a copy of the final
 28 report as provided in this section and the fiduciary or other officer of
 29 the court administering the affairs of any such employer shall have
 30 been discharged and the fiduciary's or other officer's final report
 31 approved, the commissioner may at any time within one (1) year from
 32 the date upon which such final report was approved file a petition with
 33 the court alleging that there was not full compliance with this section
 34 and the court, upon being satisfied that the commissioner was not fully
 35 advised of the proceedings relative to the filing and approval of the
 36 final report as provided in this section, shall set aside its approval of
 37 said final report with the result that the proceedings shall be reinstated
 38 as though no final report had been filed in the first instance and shall
 39 proceed from that point in the manner provided by law and not
 40 inconsistent with the provisions of this section.

41 SECTION 29. IC 22-4-32-19 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 19. (a) At any
 43 time within four (4) years after the date upon which any contributions,
 44 **skills 2016 training assessments under IC 22-4-10.5-3**, or interest
 45 thereon were paid, an employing unit which has paid such
 46 contributions, **skills 2016 training assessments**, or interest thereon
 47 may make application for a refund of such contributions, **skills 2016**
 48 **training assessments**, or an adjustment thereon in connection with
 49 subsequent contribution payments **or skills 2016 training**
 50 **assessments**. The commissioner shall thereupon determine whether or

not such contribution **or skills 2016 training assessment**, or interest or any portion thereof was erroneously paid or wrongfully assessed and notify the employing unit in writing of its decision.

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) The commissioner may grant such application in whole or in part and may allow the employing unit to make an adjustment thereof without interest in connection with subsequent contribution payments **or skills 2016 training assessments**. If such adjustment cannot be made, the commissioner may refund such amounts, without interest, from the fund. For like cause and within the same period, adjustments or refund may be made on the commissioner's own initiative. Any adjustments or refunds of interest or penalties collected **for contributions due under IC 22-4-10-1** shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. **Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by IC 22-4-24.5-1.**

(d) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 30. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 20. The contributions, penalties, **skills 2016 training assessments under IC 22-4-10.5-3**, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

SECTION 31. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 23. (a) As used in this section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48.

(2) "Liquidation" means the operation or act of winding up a corporation's affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal shall do the following:

(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions **and skills 2016 training assessments under IC 22-4-10.5-2** to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require

information concerning:

- (A) the corporation's assets;
- (B) the corporation's liabilities;
- (C) details of the plan or resolution;
- (D) the names and addresses of corporate officers, directors, and shareholders;
- (E) a copy of the minutes of the shareholders' meeting at which the plan or resolution was formally adopted; and
- (F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state. An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:

- (1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and
- (2) from each shareholder for the amount the shareholder accepted.

(d) The corporation's officers' and directors' personal liability includes all contributions, **skills 2016 training assessments**, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions **and skills 2016 training assessments** may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation.

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation effecting dissolution, liquidation, or withdrawal if:

- (1) the officers and directors of the corporation have met the requirements of subsection (b); and
- (2) request for the clearance is made in writing by the officers and directors of the corporation within thirty (30) days after the filing of the form of notification with the department.

(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors from personal liability under this section.

SECTION 32. IC 22-4-32-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to: (1) the assessment of contributions, **skills 2016 training assessments under IC 22-4-10.5-3**, penalties, and interest;

(2) the transfer of charges from an employer's account;

(3) successorships and related matters arising from successorships;

(4) claims for refunds and adjustments;

(5) decisions; and

(6) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 33. IC 22-4-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this article **or skills 2016 training assessments under IC 22-4-10.5-3** from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in his employ to finance the employer's contributions **or skills 2016 training assessments under IC 22-4-10.5-3** required from him, or require or accept any waiver by any individual in his employ of any right under this article."

Page 9, between lines 14 and 15, begin a new paragraph and insert: "SECTION 35. [EFFECTIVE JANUARY 1, 2002] (a) **For calendar year 2002, the skills 2016 assessments as set forth in IC 22-4-10.5-3, as added by this act, shall be based on the taxable wages earned in calendar year 2001.**

(b) **For calendar year 2003, the skills 2016 assessments as set forth in IC 22-4-10.5-3, as added by this act, shall be based on the taxable wages earned in calendar year 2002.**

(c) **For calendar year 2004, the skills 2016 assessments as set**

- 1 **forth in IC 22-4-10.5-3, as added by this act, shall be based on the**
- 2 **taxable wages earned in calendar year 2003.**
- 3 **(d) This SECTION expires January 1, 2006."**
- 4 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1962 as printed March 30, 2001.)

Conference Committee Report
on
Engrossed House Bill 1962

Signed by:

Representative Stilwell
Chairperson

Senator Harrison

Representative Smith M

Senator Craycraft

House Conferees

Senate Conferees